had *legal* rights in regard to the fund, for there were none. In the language of the English Courts (2 Swanston 613) "It is donation, not restitution of a former right, but from a new fund, belonging to an independent authority, a grant to the sufferer for what he has lost."

It is true there is a considerable series of precedents in favor of the adjustment of international disputes by arbitration; some have value, others are quite destitute of value. The proceedings under Mr. Jay's treaty where there were four different controversies, were, on the whole, satisfactory so far as they went. Those under the treaty of Washington, where there were four arbitrations, were, on the whole, satisfactory. The result of the proceedings under the Behring Sea Commission were not perhaps satisfactory to all parties. In that instance there was no settlement at the outset of the basis upon which the arbitration was to determine the questions at issue; but however that may be, no appeal either to a national or state tribunal is certain to reach conclusions which will be satisfactory to all sides.

But it is idle to call things precedents which are not such. The fact that France, the United States or Great Britain have, by Parliamentary action, recommended treaties for the establishment of tribunals of arbitration, constitutes no precedent. An agreement between any number of the members of the different Parliamentary bodies of independent nations in favor of arbitration does not constitute a precedent. The framing of rules by important bodies, public or private, under which such tribunals may be established, and may carry on proceedings, do not establish a precedent; but all these things do indicate a desire on the part of thinking men and women to have the experiment of a permanent tribunal tried, and that is all.

Any one reading the correspondence between our own country and Great Britain just issued, will perceive the vast difference between a public discussion of the idea which the ADVOCATE OF PEACE has done so much to promote and the class of discussions which must finally be resorted to if a real agreement is had between two great nations. Sentiment is all very well; love is excellent; the hurrah of the crowd is extremely helpful at times though not always; but now the debate has reached a point where those who deal with realities and not with fictions are, by all means, the most helpful in creating the thing which all true men and true women desire.

New York City.

INTERNATIONAL LAW AND INTERNATIONAL ARBITRATION.

LORD CHIEF JUSTICE RUSSELL'S ADDRESS BEFORE THE AMERICAN BAR ASSOCIATION.

SARATOGA, N. Y., August 20, 1896.

(*Concluded from Sept. Number.*)

THE ENGLISH AND AMERICAN SCHOOL.

Notwithstanding all this there is a marked agreement between English and American writers as to the manner in which international law is treated. They belong to the same school—a school distinctly different from that of writers on the continent of Europe. The essential difference consists in this: Whereas in the latter what I shall call the ethical and metaphysical treatment is followed, in the former, while not ignoring the important part which ethics play in the consideration of what international law ought to be, its writers for the most part carefully distinguish between what is, in fact, international law from their views of what the law ought to be. Their treatment is mainly historical.

By most Continental writers, and by none more than Hautefeuille, what is and what he thinks ought to be law, theory and fact, law and so-called rules of nature and of right, are mixed up in a way at once confusing and misleading.

One distinguished English writer indeed, the late Sir Henry Maine, thought that he had discovered a fundamental difference between English and American jurists as to the view taken of the obligation of international law.

His opinion was based on the judgments of the English Judges in the celebrated "Franconia" case, in which it was held that the English courts had no jurisdiction to try a foreigner for a crime committed on the high seas, although within a marine league from the British coast. The case was decided in 1876, and is reported in the second volume of the Law Reports, Exchequer Division, page 63. The facts were these: The defendant was Captain Keyn, a German subject, in charge as captain of the German steamship Franconia. When off Dover the Franconia, at a point within two and a half miles of the beach, ran into and sank a British steamer, the Strathclyde, thereby causing loss of life. The facts were such as to constitute, according to English law, the crime of manslaughter, of which the defendant was found guilty by the jury, but the learned Judge who tried the case at the Central Criminal Court reserved for further consideration by the Court for Crown Cases Reserved the question whether the Central Criminal Court had jurisdiction over the defendant, a foreigner, in respect of an offence committed by him on the high seas, but within a marine league of the shore. All the members of the court were of opinion that the chief criminal courts—that is to say, the Courts of Assize and the Central Criminal Court—were clothed with jurisdiction to administer justice in the bodies of counties, or, in other words, in English territory; and that from the time of Henry VIII a court of special commissioners, and, later, the Central Criminal Court (in which the defendant had been tried), had been invested by statute with the jurisdiction previously exercised by the Lord High Admiral on the high seas. But the majority held that the marine league belt was not part of the territory of England, and, therefore, not within the bodies of counties, and also that the Admiral had had no jurisdiction over foreigners on the high seas. The minority, on the other hand, held that the marine belt was part of the territory of England and that the Admiral had had jurisdiction over foreigners within those limits.

While I do not say that I should have arrived at the conclusions of historical fact of the majority, I am by no means clear that the judges of the United States, accepting the same data as did the majority of the English Judges, would not have decided in the same way. But however this may be, the views of the majority do not seem to me to warrant the assumption of Sir Henry Maine that the case fundamentally affects the view taken of the authority of international law.

What it does incidentally reveal is a constitutional difference between the United States and Great Britain as to the methods by which the municipal courts ac-

quire—at least in certain cases—jurisdiction to try and to punish offences against international law.

An example of that difference is ready to hand. Improved and stricter views of neutral duties constitute one of the great developments of this century.

These views were (for reasons to which I have already adverted) adopted earlier and more fully in the United States than in England. What was thereupon the action of the Executive? No sooner had Washington, as President, and Jefferson, as Secretary of State, promulgated the rules of neutrality by which they intended to be guided than they caused Gideon Henfield, an American citizen, to be tried for taking service on board a French privateer, as being a criminal act, because in contravention of these rules. Political feeling procured an acquittal, in spite of the Judge's direction.

Later, no doubt, Congress passed the Act of 1794, making such conduct criminal, not (as I gather) because it was admitted to be necessary, but simply to strengthen the hands of the Executive.

I can hardly doubt how the same case would have been dealt with in England. Assuming the doing of the acts forbidden by proclamation of neutrality, although infractions of international law, not to be misdemeanors at common law, and not to have been made offences by municipal statute, the judges (I cannot doubt) would have said the act was yesterday legal, or at least not illegal, and that, municipal law not having declared it a crime, they could not so declare it. According to the law of England, a proclamation by the Executive, in however solemn form, has no legislative force unless an act of Parliament has so enacted. Parliament has, in fact, so enacted as to orders of the Queen in Council in many cases. But assuming the law to be as I have stated, it points to no failure in England to recognize the full obligation of international law as between states. For, notwithstanding isolated expressions of opinion uttered in times of excitement, it will not to-day be doubted that it is the duty of states to give effect to the obligations of international law by municipal legislation, where that is necessary, and to use reasonable efforts to secure the observance of that law.

DIFFERENCES OF CONSTITUTIONS.

In England we have an old Constitution under which we are accustoned to fixed modes of legislation, and when at last we accept a new development of international law, we look to those methods to give effect to it. Indeed, that habit of looking to legislation to meet new needs and developments, even in internal concerns—a habit confirmed and strengthened in the current century—has done much to restrain the judges from that bold expansion of principle to meet new cases, which, when legislation was less active, marked judicial utterances.

On the other hand, with you, things are materially different. Your Constitution is still so modern that equally fixed habits of looking to legislation have not had time to grow up. Meanwhile the modern Constitution is, from time to time, assailed by still more modern necessities, and the methods for its amendment are not swift or easy. The structure has not become completely ossified. Hence has arisen what I may call a flexibility of interpretation, applied to the Constitution of the United States, for which I know no parallel in English judicature, and which seems to me to exceed the latitude of interpretation observed by your judges in relation to acts of Congress. I refer, as examples, to the emancipation of the slaves by President Lincoln during the Civil War, which was justified as an act covered by the necessities of the case and within the "war power" conferred on the Executive by the constitution; and also to the judicial declaration, by the Supreme Court, of the validity of the act of Congress making greenbacks legal tender, on the ground that certain express powers as to currency being vested in Congress by the Constitution, the power of giving forced circulation to paper flowed from them as a desirable, if not a necessary, implication. With us no such difficulties arise. Our Constitution is unwritten, and the Legislature is omnipotent. With you, the Constitution is written, and the judicial power interprets it, and may declare the highest acts of Congress null and void as unconstitutional. With us there can, in the strict sense of the word, be no such thing as an unconstitutional act of Parliament.

I turn now to the consideration of what characterizes the later tendencies of international law. In a word, it is their greater humanity.

When Menelik, Emperor of Abyssinia, was recently reported to have cut off the right arms and feet of 500 prisoners, the civilized world felt a thrill of horror. Yet the time was when to treat prisoners as slaves and permanently to disable them from again bearing arms were regarded as common incidents of belligerent capture. Such acts would once have excited no more indignation than did the inhumanities of the African slave trade before the days of Clarkson and Wilberforce.

Let us hope that it is no longer possible to do as Louis XIV did in his devastation of the Palatinate, or to do as he threatened to do, break down the dykes and overwhelm with disaster the Low countries. Let us hope, too, that no modern Napoleon would dare to decree as the first Napoleon did in his famous or infamous *seront brûlées* edict of 1810. The force of public opinion is too strong and it has reached a higher moral plane.

A bare recital of some of the important respects in which the evils of war have been mitigated by more humane customs must suffice.

Among them are: 1. The greater immunity from attack of the persons and property of enemy subjects in a hostile country. 2. The restrictions imposed on the active operations of a belligerent when occupying an enemy's country. 3. The recognized distinction between subjects of the enemy, combatant and non-combatant. 4. The deference accorded to cartels, safe-conducts and flags of truce. 5. The protection secured for ambulances and hospitals, and for all engaged in tending the sick and wounded—of which the Geneva Red Cross Convention of 1864 is a notable illustration. 6. The condemnation of the use of instruments of warfare which cause needless suffering.

In this field of humane work the United States took a prominent part. When the Civil War broke out, President Lincoln was prompt in intrusting to Professor Franz Lieber the duty of preparing a manual of systematized rules for the conduct of forces in the field—rules aimed at the prevention of those scenes of cruelty and rapine which were formerly a disgrace to humanity. That manual has, I believe, been utilized by the Governments of England, France and Germany.

Even more important are the changes wrought in the

position of neutrals in war times, who, while bound by strict obligations of neutrality, are in great measure left free and unrestricted in the pursuit of peaceful trade.

NOT AN ERA OF PEACE.

But in spite of all this, who can say that these times breathe the spirit of peace? There is war in the air. Nations armed to the teeth prate of peace, but there is no sense of peace. One sovereign burdens the industry of his people to maintain military and naval armaments at war strength, and his neighbor does the like, and justifies it by the example of the other; and England, insular though she be, with her imperial interests scattered the world over, follows, or is forced to follow, in the wake. If there be no war, there is at best an armed peace.

Figures are appalling. I take those for 1895. In Austria the annual cost of army and navy was, in round figures, 18 millions sterling; in France, 37 millions; in Germany, 27 millions; in Great Britain, 36 millions; in Italy, 13 millions, and in Russia, 52 millions.

The significance of these figures is increased if we compare them with those of former times. The normal cost of the armaments of war has of late years enormously increased. The annual interest on the public debt of the great Powers is a war tax. Behind this array of facts stands a tragic figure. It tells a dismal tale. It speaks of overburdened industries, of a waste of human energy unprofitably engaged, of the squandering of treasure which might have let light into many lives, of homes made desolate, and all this, too often, without recompense in the thought that these sacrifices have been made for the love of country or to preserve national honor or for national safety. When will governments learn the lesson that wisdom and justice in policy are a stronger security than weight of armament?

> Ah! when shall all men's good,
> Be each man's rule, and universal peace,
> Lie, like a shaft of light, across the land?

It is no wonder that men—earnest men—enthusiasts, if you like, impressed with the evils of war, have dreamt the dream that the millennium of peace might be reached by establishing a universal system of international arbitration.

The cry for peace is an Old World cry. It has echoed through all the ages, and arbitration has long been regarded as the handmaiden of peace. Arbitration has, indeed, a venerable history of its own. According to Thucydides, the historian of the Peloponnesian war, Archidamus, King of Sparta, declared that "it was unlawful to attack an enemy who offered to answer for his acts before a tribunal of arbiters."

The fifty-years' treaty of alliance between Argos and Lacedaemon contained a clause to the effect that if any difference should arise between the contracting parties, they should have recourse to the arbitration of a neutral power, in accordance with the custom of their ancestors. These views of enlightened paganism have been reinforced in Christian times. The Roman emperors for a time, and afterward in fuller measure, the Popes (as we have seen) by their arbitrament, often preserved the peace of the Old World and prevented the sacrifice of blood and treasure. But from time to time, and more fiercely when the influence of the head of Christendom lessened, the passions of men broke out, the lust for dominion asserted itself and many parts of Europe became so many fields of Golgotha. In our own times the desire has spread and grown strong for peaceful methods for the settlement of international disputes. The reason lies on the surface. Men and nations are more enlightened; the grievous burden of military armaments is sorely felt, and in these days when, broadly speaking, the people are enthroned, their views find free and forcible expression in a worldwide press. The movement has been taken up by societies of thoughtful and learned men in many places. The *Bureau International de la Paix* records the fact that some 94 voluntary peace associations exist, of which some 40 are in Europe and 54 in America. Several Congresses have been held in Europe to enforce the same object, and in 1873 there was established at Ghent the *Institut du Droit International*, the declared objects of which are to put international law on a scientific footing, to discuss and clear up moot points, and to substitute a system of rules conformable to right for the blind chances of force and the lavish expenditure of human life.

In 1873, also, the Association for the Reform and Codification of the Laws of Nations was formed, and it is to-day pursuing active propaganda under the name of the International Law Association, which it adopted in 1895. It also has published a report affirming the need of a system of international arbitration.

In 1888 a congress of Spanish and American jurists was held at Lisbon, at which it was resolved that it was indispensable that a tribunal of arbitration should be constituted with a view to avoid the necessity of war between nations.

LEGISLATIVE BODIES TAKE ACTION.

But more hopeful still—the movement has spread to legislative representative bodies. As far back as 1833 the Senate of Massachusetts proclaimed the necessity for some peaceful means of reconciling international differences, and affirmed the expediency of establishing a court of nations.

In 1890 the Senate and the House of Representatives of the United States adopted a concurrent resolution, requesting the President to make use of any fit occasion to enter into negotiations with other Governments, to the end that any difference or dispute, which could not be adjusted by diplomatic agency, might be referred to arbitration and peacefully adjusted by such means.

The British House of Commons in 1893 responded by passing unanimously a resolution expressive of the satisfaction it felt with the action of Congress, and of the hope that the Government of the Queen would lend its ready co-operation to give effect to it. President Cleveland officially communicated this last resolution to Congress, and expressed his gratification that the sentiments of two great and kindred nations were thus authoritatively manifested in favor of the national and peaceable settlement of international quarrels by recourse to honorable arbitration. The Parliaments of Denmark, Norway and Switzerland and the French Chamber of Deputies have followed suit.

It seemed eminently desirable that there should be some agency by which members of the great representative and legislative bodies of the world, interested in this far-reaching question, should meet on a common ground and discuss the basis for common action.

With this object there has recently been founded "The Permanent Parliamentary Committee in Favor of

Arbitration and Peace," or as it is sometimes called, "The Interparliamentary Union." This Union has a permanent organization—its office is at Berne. Its members are not vain idealists. They are men of the world. They do not claim to be regenerators of mankind, nor do they promise the millennium, but they are doing honest and useful work in making straighter and less difficult the path of intelligent progress. Their first formal meeting was held in Paris in 1889 under the presidency of the late M. Jules Simon; their second in 1890 in London under the presidency of Lord Herschell, ex-Lord Chancellor of Great Britain; their third in 1891 at Rome under the presidency of Signor Bianchieri; their fourth in 1892 at Berne under the presidency of M. Droz; their fifth in 1894 at the Hague under the presidency of M. Rahusen; their sixth in 1895 at Brussels, under the presidency of M. Deschamps, and their seventh will, it is arranged, be held this year at Buda-Pesth. Speaking in this place I need only refer, in passing, to the remarkable Pan-American Congress held in your States in 1890 at the instance of the late Mr. Blaine, directed to the same peaceful object.

It is obvious, therefore, that the sentiment for peace and in favor of arbitration as the alternative for war is growing apace. How has that sentiment told on the direct action of nations? How far have they shaped their policies according to its methods? The answers to these questions are also hopeful and encouraging.

Experience has shown that over a large area international differences may honorably, practically and usefully be dealt with by peaceful arbitrament. There have been since 1815 some sixty instances of effective international arbitration. To thirty-two of these the United States have been a party and Great Britian to some twenty of them.

TREATY ARBITRATION CLAUSES.

There are many instances also of the introduction of arbitration clauses into treaties. Here again the United States appear in the van. Among the first of such treaties—if not the very first—is the Guadalupe-Hidalgo treaty of 1848 between the United States and Mexico. Since that date many other countries have followed this example. In the year 1873 Signor Mancini recommended that in all treaties to which Italy was a party such a clause should be introduced. Since the Treaty of Washington such clauses have been constantly inserted in commercial, postal and consular conventions. They are to be found also in the delimitation treaties of Portugal with Great Britain and with the Congo Free State made in 1891. In 1895 the Belgian Senate, in a single day, approved of four treaties with similar clauses, namely, treaties concluded with Denmark, Greece, Norway and Sweden.

There remains to be mentioned a class of treaties in which the principle of arbitration has obtained a still wider acceptance. The treaties of 1888 between Switzerland and San Salvador, of 1888 between Switzerland and Ecuador, of 1888 between Switzerland and the French Republic, and of 1894 between Spain and Honduras respectively contain an agreement to refer all questions in difference, without exception, to arbitration. Belgium has similar treaties with Venezuela, with the Orange Free State and with Hawaii.

These facts, dull as is the recital of them, are full of interest and hope for the future.

But are we thence to conclude that the millennium of peace has arrived—that the dove bearing the olive branch has returned to the ark, sure sign that the waters of international strife have permanently subsided?

I am not sanguine enough to lay this flattering unction to my soul. Unbridled ambition, thirst for wide dominion, pride of power still hold sway, although I believe with lessened force and in some sort under the restraint of the healthier opinion of the world.

But further, friend as I am of peace, I would yet affirm that there may be even greater calamities than war—the dishonor of a nation, the triumph of an unrighteous cause, the perpetuation of hopeless and debasing tyranny:

> "War is honorable,
> In those who do their native rights maintain;
> In those whose swords an iron barrier are,
> Between the lawless spoiler and the weak;
> But is, in those who draw th' offensive blade
> For added power or gain, sordid and despicable."

It behooves then all who are friends of peace and advocates of arbitration to recognize the difficulties of the question, to examine and meet these difficulties and to discriminate between the cases in which friendly arbitration is and in which it may not be practically possible.

DIFFICULTIES OF THE CASE.

Pursuing this line of thought, the shortcomings of international law reveal themselves to us and demonstrate the grave difficulties of the position.

The analogy between arbitration as to matters in difference between individuals and to matters in difference between nations carries us but a short way.

In private litigation the agreement to refer is either enforceable as a rule of court, or, where this is not so, the award gives to the successful litigant a substantive cause of action. In either case there is behind the arbitrator the power of the judge to decree and the power of the executive to compel compliance with the behest of the arbitrator. There exist elaborate rules of court and provisions of the legislature governing the practice of arbitrations. In fine, such arbitration is a mode of litigation by consent, governed by law, starting from familiar rules and carrying the full sanction of judicial decision. International arbitration has none of these characteristics. It is a cardinal principle of the law of nations that each sovereign Power, however politically weak, is internationally equal to any other political Power, however politically strong. There are no rules of international law relating to arbitration, and of the law itself there is no authoritative exponent nor any recognized authority for its enforcement.

But there are differences to which, even as between individuals, arbitration is inapplicable—subjects which find their counterpart in the affairs of nations. Men do not arbitrate where character is at stake nor will any self-respecting nation readily arbitrate on questions touching its national independence or affecting its honor.

Again, a nation may agree to arbitrate and then repudiate its agreement. Who is to coerce it? Or, having gone to arbitration and been worsted, it may decline to be bound by the award. Who is to compel it?

These considerations seem to me to justify two conclusions: The first is that arbitration will not cover the whole field of international controversy, and the second that unless and until the great Powers of the world, in

league, bind themselves to coerce a recalcitrant member of the family of nations, we have still to face the more than possible disregard by powerful states of the obligations of good faith and of justice. The scheme of such a combination has been advocated, but the signs of its accomplishment are absent. We have, as yet, no league of nations of the Amphictyonic type.

Are we then to conclude that force is still the only power that rules the world? Must we then say that the sphere of arbitration is a narrow and contracted one?

By no means. The sanctions which restrain the wrongdoer, the breaker of public faith, the disturber of the peace of the world, are not weak, and year by year, they wax stronger. They are the dread of war and the reprobation of mankind. Public opinion is a force which makes itself felt in every corner and cranny of the world, and is most powerful in the communities most civilized. In the public press and in the telegraph it possesses agents by which its power is concentrated and speedily brought to bear where there is any public wrong to be exposed and reprobated. It year by year gathers strength as general enlightenment extends its empire and a higher moral altitude is attained by mankind. It has no ships of war upon the seas or armies in the field, and yet great potentates tremble before it and humbly bow to its rule.

Again, trade and travel are great pacificators. The more nations know of one another, the more trade relations are established between them, the more goodwill and mutual interest grow up, and these are powerful agents working for peace.

But although I have indicated certain classes of questions on which sovereign Powers may be unwilling to arbitrate, I am glad to think that these are not the questions which most commonly lead to war. It is hardly too much to say that arbitration may fitly be applied in the case of by far the largest number of questions which lead to international differences. Broadly stated (1), wherever the right in dispute will be determined by the ascertainment of the true facts of the case; (2), where, the facts being ascertained, the right depends on the application of the proper principles of international law to the given facts, and (3), where the dispute is one which may properly be adopted on a give-and-take principle, with due provision for equitable compensation, as in cases of delimitation of territory and the like— in such cases the matter is one which ought to be arbitrated.

The question next arises, What ought to be the constitution of the tribunal of arbitration? Is it to be a tribunal *ad hoc*, or is it to be a permanent international tribunal?

It may be enough to say that at this stage the question of the constitution of a permanent tribunal is not ripe for practical discussion, nor will it be until the majority of the great Powers have given in their adhesion to the principle. But whatever may be said for vesting the authority in such Powers to select the arbitrators from time to time, as occasion may arise, I doubt whether in any case a permanent tribunal, the members of which shall be *a priori* designated, is practicable or desirable. In the first place, what in the particular case is the best tribunal must largely depend upon the question to be arbitrated. But apart from this I gravely doubt the wisdom of giving that character of permanence to the *personnel* of any such tribunal. The interests involved are commonly so enormous and the forces of national sympathy, pride and prejudice are so searching, so great and so subtle that I doubt whether a tribunal, the membership of which had a character of permanence, even if solely composed of men accustomed to exercise the judicial faculty, would long retain general confidence, and, I fear, it might gradually assume intolerable pretensions.

There is danger, too, to be guarded against from another quarter. So long as war remains the sole court wherein to try international quarrels the risks of failure are so tremendous and the mere rumor of war so paralyzes commercial and industrial life that pretensions wholly unfounded will rarely be advanced by any nation, and, the strenuous efforts of statesmen, whether immediately concerned or not, will be directed to prevent war. But if there be a standing court of nations, to which any Power may resort, with little cost and no risk, the temptation may be strong to put forward pretentious and unfounded claims, in support of which there may readily be found in most countries (can we except even Great Britain and the United States?) busy-body Jingoes only too ready to air their spurious and inflammatory patriotism.

MEDIATION AND ITS ADVANTAGES.

There is one influence which by the law of nations may be legitimately exercised by the powers in the interests of peace—I mean mediation.

The plenipotentiaries assembled at the Congress of Paris, 1856, recorded the following admirable sentiments in their twenty-third protocol: "The plenipotentaries do not hesitate to express, in the names of their Governments, the wish that states between which any serious misunderstanding may arise should, before appealing to arms, have recourse as far as circumstances may allow to the good offices of a friendly Power. The plenipotentiaries hope that the governments not represented at the Congress will unite in a sentiment which has inspired the wish recorded in the present protocol."

In the treaty which they concluded they embodied, but with a more limited application, the principle of mediation, more formal than that of good offices, though substantially similar to it. In case of a misunderstanding between the Porte and any of the signatory Powers, the obligation was undertaken "before having recourse to the use of force, to afford the other contracting parties the opportunity of preventing such an extremity by means of their mediation." (Article 8.) Under this article Turkey, in 1877, appealed to the other Powers to mediate between her and Russia. It is not, perhaps, to be wondered at, considering the circumstances, that the appeal did not succeed in preventing the Russo-Turkish War. But the Powers assembled in the African Conference at Berlin were not discouraged from repeating the praiseworthy attempt, and in the final act of that conference the following proviso (Article 12) appears:

"In case of a serious disagreement arising between the signatory Powers on any subjects within the limits of the territory mentioned in Article 1 and placed under the *régime* of commercial freedom, the Powers mutually agree, before appealing to arms, to have recourse to the mediation of one or more of the neutral Powers."

It is to be noted that this provision contemplates not arbitration but mediation, which is a different thing. The mediator is not, at least, in the first instance, in-

vested, and does not seek to be invested, with the authority to adjudicate upon the matter in difference. He is the friend of both parties. He seeks to bring them together. He avoids a tone of dictation to either. He is careful to avoid, as to each of them, anything which may wound their political dignity or their susceptibilities. If he cannot compose the quarrel he may at least narrow its area and probably reduce it to more limited dimensions, the result of mutual concessions; and, having narrowed the issues, he may pave the way for a final settlement by a reference to arbitration or by some other method.

This is a power often used, perhaps not so often as it ought to be—and with good results.

It is obvious that it requires tact and judgment as to mode, time and circumstance, and that the task can be undertaken hopefully, only where the mediator possesses great moral influence, and where he is beyond the suspicion of any motive except desire for peace and the public good.

There is, perhaps, no class of question in which mediation may not, time and occasion being wisely chosen, be usefully employed, even in delicate questions affecting national honor and sentiment.

Mr. President, I come to an end. I have but touched the fringe of a great subject. No one can doubt that sound and well-defined rules of international law conduce to the progress of civilization and help to insure the peace of the world.

In dealing with the subject of arbitration I have thought it right to sound a note of caution, but it would, indeed, be a reproach to our nineteen centuries of Christian civilization if there were now no better method for settling international differences than the cruel and debasing methods of war. May we not hope that the people of these States, and the people of the mother land —kindred peoples—may, in this matter, set an example of lasting influence to the world? They are blood relations. They are indeed separate and independent peoples, but neither regards the other as a foreign nation.

We boast of our advance and often look back with pitying contempt on the ways and manners of generations gone by. Are we ourselves without reproach? Has our civilization borne the true marks? Must it not be said, as has been said of religion itself, that countless crimes have been committed in its name? Probably it was inevitable that the weaker races should in the end succumb; but have we always treated them with consideration and with justice? Has not civilization too often been presented to them at the point of the bayonet, and the Bible by the hand of the filibuster? And apart from races we deem barbarous, is not the passion for dominion and wealth and power accountable for the worst chapters of cruelty and oppression written in the world's history? Few peoples—perhaps none—are free from this reproach. What, indeed, is true civilization? By its fruit you shall know it. It is not dominion, wealth, material luxury; nay, not even a great literature and education widespread—good though these things be. Civilization is not a veneer; it must penetrate to the very heart and core of societies of men.

TRUE CIVILIZATION.

Its true signs are thought for the poor and suffering, chivalrous regard and respect for woman, the frank recognition of human brotherhood, irrespective of race or color or nation or religion, the narrowing of the domain of mere force as a governing factor in the world, the love of ordered freedom, abhorrence of what is mean and cruel and vile, ceaseless devotion to the claims of justice. Civilization in that, its true, its highest sense, must make for peace. We have solid grounds for faith in the future. Government is becoming more and more, but in no narrow class sense, government of the people, by the people and for the people. Populations are no longer moved and manœuvred as the arbitrary will or restless ambition or caprice of kings or potentates may dictate. And although democracy is subject to violent gusts of passion and prejudice, they are gusts only. The abiding sentiment of the masses is for peace—for peace to live industrious lives and to be at rest with all mankind. With the prophet of old they feel—though the feeling may find no articulate utterance—"how beautiful upon the mountains are the feet of him that bringeth good tidings, that publisheth peace."

Mr. President, I began by speaking of the two great divisions—American and British—of that English-speaking world which you and I represent to-day, and with one more reference to them I end.

Who can doubt the influence they possess for insuring the healthy progress and the peace of mankind? But if this influence is to be fully felt, they must work together in cordial friendship, each people in its own sphere of action. If they have great power, they have also great responsibility. No cause they espouse can fail; no cause they oppose can triumph. The future is, in large part, theirs. They have the making of history in the times that are to come. The greatest calamity that could befall would be strife which should divide them.

Let us pray that this shall never be. Let us pray that they, always self-respecting, each in honor upholding its own flag, safeguarding its own heritage of right and respecting the rights of others, each in its own way fulfilling its high national destiny, shall yet work in harmony for the progress and the peace of the world.

PERMANENT ANGLO-AMERICAN ARBITRATION A MORAL NECESSITY.

BY BENJAMIN F. TRUEBLOOD, LL.D.

Address delivered at the Mohonk Arbitration Conference, June, 1896.

Mr. Chairman and members of the Conference, — The events of the past year, in Anglo-American relations, have been a surprise and a revelation to most of us. Little did we think, when in this high and peaceful retreat a year ago we were calmly discussing arbitration and emphasizing the immediate demand for permanent Anglo-American arbitration, that we were already on the edge of an approaching storm that was to shake to their foundations the two nations of English-speaking people and test their rationality, their moral strength and their capacity for leadership in civilization as they have never been tested more than once or twice since the one people became two nations.

The surprise to which we have been treated has been equally great in each of two directions. Our first astonishment was the phenomenon witnessed on the 17th and 18th of December and succeeding days, when a flame of unreasoning patriotism, if we may call it patriotism, and rash, light-hearted talk of war, kindled by a short presi-